

Senate Bill No. 1200

An act relating to public records and meetings; providing an exemption from the public records law for certain records relating to internal risk-management programs in nursing homes and assisted living facilities; providing for release of such information under certain circumstances; providing an exemption from the public meetings law for meetings of internal risk-management and quality-assurance committees in nursing homes and assisted living facilities; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Confidentiality of records and meetings of risk-management and quality-assurance committees.—

(1) Records of meetings of the risk-management and quality-assurance committee of a long-term care facility licensed under part II or part III of chapter 400, Florida Statutes, as well as incident reports filed with the facility's risk manager and administrator, notifications of the occurrence of an adverse incident, and adverse-incident reports from the facility are confidential and exempt from section 119.07(1), Florida Statutes, and Section 24(a) of Article I of the State Constitution. However, if the Agency for Health Care Administration has a reasonable belief that conduct by a staff member or employee of a facility is criminal activity or grounds for disciplinary action by a regulatory board, the agency may disclose such records to the appropriate law enforcement agency or regulatory board.

(2) Records that are confidential and exempt under subsection (1) and that are obtained by a regulatory board are not available to the public as part of the record of investigation and prosecution in a disciplinary proceeding made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon request by a health care professional against whom probable cause has been found, any such records that form the basis of the determination of probable cause.

(3) Records disclosed to a law enforcement agency pursuant to subsection (1) remain confidential and exempt until criminal charges are filed.

(4) The meetings of an internal risk-management and quality-assurance committee of a long-term care facility licensed under part II or part III of chapter 400, Florida Statutes, are exempt from section 286.011, Florida Statutes, and Section 24(b) of Article I of the State Constitution and are not open to the public.

(5) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with section 119.15, Florida Statutes, and shall stand repealed on October 1, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that information pertaining to the operation of internal risk-management and quality-assurance programs in long-term care facilities licensed under part II or part III of chapter 400, Florida Statutes, be confidential and exempt from public records requirements, and that meetings of quality-assurance committees be closed to the public. The Legislature finds that it is in the interests of the health and safety of the public to require long-term care facilities to operate internal risk-management programs and for the Agency for Health Care Administration to review the operation of these programs. The Legislature finds that these programs are effective in reducing risk to residents and improving quality when facility staff have frank and open internal communication regarding potential resident risks and quality-assurance problems and that public access to these discussions or agency records of these discussions will inhibit this frank and open internal communication.

Section 3. This act shall take effect on the same date that Senate Bill ____ or similar legislation creating internal risk-management and quality-assurance programs in long-term care facilities licensed under part II or part III of chapter 400, Florida Statutes, takes effect, if such legislation is adopted in the same legislative session or an extension thereof.

Approved by the Governor May 15, 2001.

Filed in Office Secretary of State May 15, 2001.